

## KENTUCKY DIVISION OF ABANDONED MINE LANDS

### SPECIAL CONDITIONS

#### 1. DEFINITIONS

The following definitions clarify, supplement and/or amend those provided in Article 5 of the Instructions to Bidders.

a. The "Contract Documents" are the Agreement, any Addenda, Contractual Obligations & Requirements, Bid Item Description, General Conditions, Special Conditions, Technical Specifications, Bid Schedule, the Drawings, the Instructions to Bidders, Form of Contract Agreement, Form of Proposal, and Form of Advertisement.

b. The term "ENGINEER" as used herein shall mean the Kentucky Division of Abandoned Mine Lands or any designated representatives thereof.

c. The term "COMMONWEALTH", as used throughout the Special Conditions and the Technical Specifications, shall mean the Commonwealth of Kentucky as represented by any of its agencies, including but not limited to: the Finance and Administration Cabinet and the Environmental and Public Protection Cabinet, Division of Abandoned Mine Lands. (This term is synonymous with the term OWNER as used hereinbefore.)

d. The terms "Design Drawings", "Drawings", and "Plans" are synonymous and all refer to the set of design drawings as entitled for a given project.

e. The term "Project" shall mean any and all obligations, duties and responsibilities necessary to the successful completion of the project assigned to or undertaken by the CONTRACTOR under the provisions of these Contract Documents, including all labor, materials, equipment and other incidentals, and the furnishing thereof. (This term replaces the term "work" as used hereinbefore.)

f. The term "Work", as used in these Special Conditions and in the Technical Specifications, shall refer to the item(s) of work being discussed, described, or specified at the time of use.

g. For the purposes of this Agreement, the "Contract Period" is defined as that time required for completion of this reclamation

project in accordance with the existing Drawings and Specifications. Delays beyond the CONTRACTOR'S control, or changes in the existing Drawings by the ENGINEER, may necessitate the granting of extensions beyond the period stipulated in Article C of the Contractual Obligations & Requirements. This definition augments but does NOT amend Article 1.17 of the General Conditions.

## 2. CONTRACT DOCUMENTS

In the event of conflicts between the various elements of these Contract Documents, the order of precedence shall be as follows: Addendum, Contractual Obligations & Requirements, Bid Item Description, Special Conditions, General Conditions, Technical Specifications, Bid Schedule, Design Drawings, and all other elements listed in Article 1-a of these Special Conditions.

## 3. SUBCONTRACTING

a. The division of the Technical Specifications into sections and/or subdivisions is done for convenience of reference and is not intended to control the CONTRACTOR in dividing work among SUBCONTRACTORS or to limit the scope or type of work performed by any trade.

b. If the PRIME CONTRACTOR intends to subcontract portions of the work, this intent shall be indicated and the areas identified in the space provided in the Form of Proposal.

c. After the Award of Contract, the CONTRACTOR shall not modify and/or add additional subcontracting without prior written approval of the ENGINEER. No subcontracting of the work, or assignment of the contract shall in any case release the CONTRACTOR of his liability under the contract and bond.

d. The CONTRACTOR shall provide and maintain the proper plant facilities, clerical personnel and field superintendents for proper management and coordination of SUBCONTRACTORS and own forces as well as for providing and maintaining direct lines of communication between the PRIME CONTRACTOR and the ENGINEER. The ENGINEER shall not be required to deal directly with SUBCONTRACTORS of the CONTRACTOR. Failure of the CONTRACTOR to provide proper and qualified field management services will be cause for termination of the contract.

#### 4. PROJECT INSPECTION

Inspection of all construction features (i.e. quality control) shall be performed by the Division of Abandoned Mine Lands, 2521 Lawrenceburg Road, Frankfort, Kentucky 40601. The ENGINEER and his representatives shall at all times have ready access to the project area.

#### 5. METHOD OF BIDDING

The Bidder must use the Form of Proposal and Bid Schedule furnished by the COMMONWEALTH. All data and other information requested must be supplied. The bidder must submit unit price bids, extended and totaled, on all items contained on the Bid Schedule, regardless of whether the individual items of work are to be let by "Unit Price", "Lump Sum", "Actual Cost", or "Plan Quantities" as defined in Article 13 of these Special Conditions.

The submission of a bid will be construed as evidence that a site visit and examination have been made, that the bidder is thoroughly familiar with, understands and agrees to all terms and intents of the Contract Documents, and that any conflicts within the documents or between the documents and other written instructions or verbal statements have been resolved to the satisfaction of the bidder. Claims for labor, equipment, materials, or other costs required due to difficulties which could have been foreseen had an adequate examination of the site been made, the Contract Documents read thoroughly and clarification sought will not be recognized.

#### 6. AWARD OF CONTRACT

Award of Contract will be made to the qualified bidder submitting the low total bid amount. The unit prices will control and extensions and totals will be checked. An obvious case of unbalanced bidding will be considered sufficient grounds for rejection of the entire bid. The COMMONWEALTH reserves the right to reject any and all bids if it is deemed to be in the best interest of the Commonwealth of Kentucky.

#### 7. PRECONSTRUCTION CONFERENCE

Following the signing of the Contract Documents and prior to the actual beginning of the construction, a pre-construction conference will be held. Representatives of the Division of Abandoned Mine Lands, the CONTRACTOR, including any

SUBCONTRACTORS, the Kentucky Finance and Administration Cabinet, as well as other interested agencies and parties will be present to discuss the time and sequence for construction, methods and plans of operations, payment and other relevant questions. The time and locations of this meeting will be the responsibility of the Division of Abandoned Mine Lands in consultation with the other parties.

#### 8. ACTUAL DAMAGES

Actual Damages, not a penalty, shall be levied for each work day required to complete the project beyond the Contract Period as defined in Article 1 within these special conditions and as stipulated in Article C of the Contractual Obligations & Requirements. The damages shall be the exact administrative cost incurred by the Division of Abandoned Mine Lands for every day worked that exceeds the Contract Period.

The cost shall be calculated using labor and travel expenses of the resident inspector, the project engineer, the field office supervisor and the environmental technologist after the scheduled completion date.

#### 9. PROTECTION AND SECURITY

The CONTRACTOR must exercise care in all phases of construction to prevent damage and/or injury to the life and property of others. In addition to other provisions of these Contract Documents, the CONTRACTOR shall be responsible for providing adequate security for his work areas, storage areas, office, equipment, and any other items or areas that he is using. Neither the COMMONWEALTH nor the property owners will be responsible for any damages attributable to insufficient site security, carelessness, or failure to comply with the provisions and intent of these Contract Documents.

#### 10. FUND AUTHORIZATION

Funds for this Project have been authorized by the U.S. Department for Interior, Office of Surface Mining, under the provisions of Title IV of Public Law 95-87. Funds are secured by a U.S. Treasury Letter of Credit. Federal funds will be released to the Kentucky State Treasurer to cover the CONTRACTOR'S periodic billings. On the basis of an approved invoice amount, the Division of Abandoned Mine Lands will coordinate the release of federal funds and the payment to the CONTRACTOR by the COMMONWEALTH. All payments shall be by state

checks issued by the Kentucky State Treasurer. This project is 100 percent federally funded.

#### 11. PROGRESS MEETINGS AND ESTIMATES

Prior to the 10th day of each month, a progress meeting shall be arranged by the ENGINEER for the purpose of reviewing the work performed to date, reviewing the CONTRACTOR'S pay estimate for work performed the previous month, discussing any construction problems which may have developed, reviewing the scope of work proposed for the current month, and evaluating current progress versus the CONTRACTOR'S schedule of construction. The CONTRACTOR shall have a representative present at each progress meeting who shall have authority to make binding decisions on behalf of the CONTRACTOR.

In order to facilitate timely payment(s) for work performed, it is essential that the CONTRACTOR have pay estimates prepared and submitted for review at the progress meeting. The ENGINEER'S resident inspector must review all pay documents.

The CONTRACTOR shall be allowed to submit one (1) invoice for completed work every thirty (30) calendar days. The contractor must submit at least one (1) invoice every sixty (60) calendar days during the contract period for the work performed or completed since the previous invoice.

#### 12. ELECTRONIC INVOICING

##### 12.1 INVOICING PROCEDURE #1

##### **Receive An Electronic Invoice Through E-Mail**

The Construction contractor may retain an e-mail address where a generated electronic invoice can be sent. If the contractor has not received an electronic invoice to be filled out, he can contact the field office to create one. From an contractor's perspective, the following steps will be performed to process an electronic Construction invoice.

Field Office personnel will generate the electronic invoice.

**DO NOT CHANGE THE NAME OF THE INVOICE. IT HAS A SPECIFIC FORMAT THAT WILL BE USED DURING THE APPROVAL PROCESS.**

Field Office personnel will e-mail the generated document to the e-mail address in the Construction system (contractor's e-mail address).

The contractor will review the information on the invoice prior to completion. If any information appears incorrect, the

contractor will contact the field office. All the information comes from state or AML databases.

The contractor will enter the quantities for the invoice. All other information on the invoice will either be locked from data entry or automatically calculated.

The contractor will review the electronic invoice after it is completed. If the information appears incorrect, the contractor will contact the field office. At this point, the contractor should review the invoice with the inspector if possible. The contractor will electronically sign the invoice using the ApproveIt software.

The contractor will send the electronic file to the appropriate field office. The central e-mail addresses are:

**London**

[EPPC.DSMREAMLLondonEfile@mail.state.ky.us](mailto:EPPC.DSMREAMLLondonEfile@mail.state.ky.us)

**Madisonville**

[EPPC.DSMREAMLMadisonvilleEfile@mail.state.ky.us](mailto:EPPC.DSMREAMLMadisonvilleEfile@mail.state.ky.us)

**Prestonsburg**

[EPPC.DSMREAMLPrestonsburgEfile@mail.state.ky.us](mailto:EPPC.DSMREAMLPrestonsburgEfile@mail.state.ky.us)

Field Office personnel will initiate the processing of the invoice once it is received. The field office will send an email to the contractor confirming that the field office received the invoice. If the confirmation e-mail is not received within 24 hours, the contractor will contact the field office to make sure it was received and is in the approval process. The e-mail confirmation sent to the contractor will contain the following information:

The project, grant, and invoice number received. The date and time the invoice was initiated into the workflow. Contractors may monitor the progress of the invoice in the approval process by contacting the field office.

12.2 INVOICING PROCEDURE #2

**Visit an AML Field Office**

Contractors may visit an AML field office to electronically complete an invoice and digitally sign the invoice.

Field Office personnel will generate the electronic invoice.

**DO NOT CHANGE THE NAME OF THE INVOICE. IT HAS A SPECIFIC FORMAT THAT WILL BE USED DURING THE APPROVAL PROCESS.**

Field Office personnel will place the electronic invoice onto a floppy disk.

The person completing the invoice for the contractor will be given a workstation to complete the invoice.

The person completing the invoice will review the information on the invoice before starting. All the information comes from state or AML databases. If any information appears incorrect, the invoice will be reviewed with field office personnel.

The person completing the invoice will enter the quantities for the invoice. All other information on the invoice will either be locked from data entry or automatically calculated.

The person completing the invoice will review the electronic invoice after completion. If any information appears incorrect, the invoice will be reviewed with field office personnel. At this point, the contractor will review the invoice with the inspector if possible.

The person completing the invoice will electronically sign the invoice using the ApproveIt software. The signature will be captured through the use of an ePAD signature tablet.

After saving the file to a floppy disk, the person completing the electronic invoice will return the floppy disk to the person that generated the electronic invoice.

Field office personnel will verify the file on the floppy disk is signed and readable.

Field office personnel will initiate the invoice through the approval process.

### 13. MEASUREMENT AND PAYMENT

Quantities for the various items of work are presented throughout the Contract Documents. Such quantities are generally provided as information only in order that the CONTRACTOR may have ready access to the same information which was available to or generated by the ENGINEER. The unit prices entered on the Bid Schedule shall be used in the event adjustments of quantities are required in accordance with Item 16.4 of these Special Conditions. The various items of work will be bid as "Lump Sum" or "Each", "Plan or (Design) Quantity", or by "Unit Price" as specified in the appropriate sections of the Technical Specifications.

#### 13.1 DEFINITION OF TERMS

The various methods of payment are defined in subsequent paragraphs:

- a. Lump Sum: When this term is used as an item of payment, it shall be inferred that the complete structure, structural unit, or element of work is specified as the unit measurement. As such, it will be construed to include all necessary fittings and accessories, labor, equipment, and other incidentals required for installation. No final measurement will be made.
- b. Each: The definition for Lump Sum applies to the term "Each" except more than one may be included in the Project and the actual number installed will be the final measurement.
- c. Plan (or Design) Quantity: When the "Plan Quantity" for a specific portion of the Project is designated as the method of payment in the Contract Documents, it shall be the final quantity for which payment will be made for such specified portion unless a significant computational error is encountered or the corresponding dimensions shown in the Drawings are revised by the ENGINEER.
- d. Unit Price: When "Unit Price" quantities for a specific portion of the Project are designated in the Contract Documents as the pay quantity, actual quantities for such specified portion will serve as the basis for payment. Actual quantities shall be determined by the differences in measurements taken before and after construction.
- e. Actual Cost: When "Actual Cost" is designated as the method of payment, it shall be only for those documented costs directly associated with the completion of the specific work item that has been designated for this type of payment method. The CONTRACTOR shall supply the ENGINEER with all of the necessary documents supporting costs incurred by the CONTRACTOR to qualify for payment.

#### 13.2. MEASUREMENTS

All work completed under this Contract will be and/or has been measured by the ENGINEER according to United States standard measure. The following terms apply:

- a. Linear Feet: All items measured by the linear foot, such as pipe, guardrail, drains, etc., will be measured along or parallel to the centerline and/or base upon which such items are placed or constructed, unless specified otherwise on the Drawings or in subsequent sections of the Technical Specifications. No allowances will be made on installed items for fittings or laps at connections. (When used, the term "station" will be 100 linear feet measured horizontally.)



b. Areas and Volumes: Areas and cross-sections determined in the field shall utilize standard surveying techniques. For the purpose of ascertaining quantities, it is agreed that the planimeter shall be considered an instrument of sufficient precision adapted to the measurement of areas. In computing volumes of excavation and embankments, the average-end-area method will be used.

c. Surface Area: Surface area, when used in these specifications, shall mean the actual area of expanded surface taking into account the configuration and slope of the item of work being measured, i.e., slope distances.

d. Horizontal Plane Area: Horizontal plane area, when used in these specifications, shall mean the area of projection of the surface area on a horizontal plane. Unless otherwise noted, any reference to a unit of measurement for "area" shall be interpreted to mean horizontal plane area.

e. Weight: When weight is used as the measurement standard, certified tickets, invoices, or tags for such items must be furnished to the ENGINEER. (When used, the term "ton" will mean 2,000 pounds avoirdupois.)

### 13.3 EXTRA WORK

The CONTRACTOR shall perform extra work for which there is no quantity or price in the Bid Schedule only when directed to do so in writing by the COMMONWEALTH. Such work will be paid for at a lump sum price or at unit prices stipulated in an amendment (or addendum) to the Contract Documents.

### 13.4 COMPENSATION FOR CHANGED QUANTITIES

The ENGINEER reserves the right to increase or decrease the actual quantities as site conditions warrant. When revised dimensions result in an increase or decrease in the quantities of such work, the final quantities for payment will be the amount represented by the authorized changes multiplied by the unit prices bid for such items.

The quantities shown on the Bid Schedule and elsewhere in the Contract Documents represent the ENGINEER'S estimate of the amount required to accomplish the design intent. Reasonable care in computing and verifying such numbers has been used, particularly in the case of payment items for which Plan Quantities or Lump Sum is stated as the method of payment. In the event errors beyond those normally expected for the

computational base are discovered, fair and reasonable adjustments may be made by the COMMONWEALTH based on the unit prices bid and the revised quantities. In such instances, tolerances provided in the Technical Specifications for particular work items may also require adjustment.

The use of Plan Quantities and Lump Sum methods of payment for selected work elements is intended to be in the best interest of the COMMONWEALTH, the ENGINEER, and the CONTRACTOR. The practice is not intended to be a mechanism by which risks associated with engineering computations is transferred to the CONTRACTOR.

#### 13.5 SCOPE OF PAYMENT

The contract prices - whether based on Each, Lump Sum, Plan (or Design) Quantity, Actual Cost, or Unit Price for the various bid items of the Contract Documents, shall be considered full compensation for all labor, material, equipment, and incidentals required for the complete incorporation of the item into the Project.